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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*[Entitlement of Overseas Employees to Travel and Relocation Expenses]*

FILE: B-198031

DATE: May 20, 1981

MATTER OF: Stephen T. Croall - Transfer Entitlements - Overseas Tour of Duty - Long-Term Training in the United States

**DIGEST:**

1. Department of Army employee stationed in Germany and assigned to long-term training in United States is not entitled to full permanent change of station entitlements until the training is completed and he is transferred to a new permanent duty station.
2. Army employee on long-term training assignment may have orders retroactively amended to authorize per diem where cost comparison required by statute was not made prior to issuing orders authorizing transportation of dependents and household goods.
3. Army employee may have orders issued authorizing advance return of dependents and household goods. Cost studies need not be made when it is agency's intent not to allow dependent travel and transportation of household goods incident to the training assignment.
4. Army employee who is not expected to return to overseas assignment after training in United States may be reimbursed transportation costs for shipping POV by American flag vessel on Government bill of lading after training is completed, agreement is signed, and employee is assigned to new permanent duty station.
5. Army employee may not be reimbursed for nontemporary storage expenses incident to training. However, agency has broad discretion to authorize period of time expenses can be allowed.

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6. Army employee's overseas post allowances would cease when employee's family no longer occupies quarters and departs from overseas post.
7. Army employee may be reimbursed constructive cost of transportation from his old to his new duty station, less the cost of transportation from his old duty station to his place of residence.

This decision is in response to a letter dated February 25, 1980, from the Per Diem, Travel and Transportation Allowance Committee, Department of Defense, concerning the entitlement of overseas employees' travel and relocation expenses while on a long-term training assignment in the United States. The request has been assigned PDTATAC Control No. 80-8.

The case of one such employee is presented to clarify the question of authorized entitlements. Mr. Stephen T. Croall, a civilian employee of the Department of the Army stationed in Heidelberg, Germany, was selected to attend the Industrial College of the Armed Forces in Washington, D.C., from August 1979 through June 1980. After his selection, his civilian personnel office issued travel order No. 269-79, dated June 27, 1979, mistakenly authorizing full permanent change of station (PCS) entitlements from Heidelberg to Washington rather than issuing orders for an interim period of training. Mr. Croall who had completed his original overseas tour of duty in 1975, agreed in writing that, upon completion of the training assignment, he would either exercise his reemployment rights to Fort Monroe, Virginia, or accept another assignment within the continental United States. The location of his new permanent duty station was to be determined shortly before completion of the training assignment. We understand that Mr. Croall has now finished his training assignment and has been assigned to a permanent duty station in Washington, D.C.

The authority for paying expenses of training is found in 5 U.S.C. § 4109 (1976), which provides that the head of an agency may authorize payment of all or a part of the necessary costs of travel and per diem to persons

undergoing training. In the alternative, the cost of transportation of the employee's immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking are authorized to be paid, but only when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training. It has been the position of this Office that the travel expenses payable in connection with training assignments are limited strictly to those expenses specifically stated in the training statute. Michael G. Pond, 58 Comp. Gen. 253 (1979), reconsideration denied, B-193197, January 10, 1980. However, the Army says that our interpretation, coupled with the Department of Army's policy of authorizing the maximum allowable entitlements, causes a number of problems in cases involving employees assigned to overseas duty stations who are selected to attend long-term training programs in the United States.

We are, therefore, asked the following questions pertaining to Mr. Croall's entitlements:

QUESTION 1

"May the fact that all ties to the overseas duty station are severed upon departure for the training assignment and the fact that the employee already has completed a transportation agreement, serve as a basis for allowing payment of full PCS benefits? For example, could a personnel action reassigning the employee to an activity nearest his training site, coupled with his earned return transportation agreement, establish entitlement to full PCS allowances?"

Answer. We have held in recent decisions that when an employee's transfer is interrupted by an interim period of training at another location before the transfer, the training site is normally regarded as only an intermediate duty station. The permanent change of station is not completed until after the training and the transfer to the new permanent duty location. Donald C. Cardelli, B-195976, February 8, 1980; Ronald L. Esquerra, B-195479, March 7, 1980; 52 Comp. Gen. 834 (1973).

Since it was the intention of the Army that Mr. Croall be assigned for training purposes, he would not be performing his regular duties. He would, in fact, be assigned to a training site and the permanent change of station would not be completed until after the training and his transfer to a new permanent duty station. In this respect, 2 Joint Travel Regulations, paragraph C4502-3 (change 164, June 1, 1979), provides instructions for civilian employees of the Department of Defense who attend a training program without returning to their old duty station. It is correctly stated therein that:

\*\*\*Payment of allowances prescribed in Chapter 14, as well as other permanent change of station allowances authorized in conjunction with an employee's transfer, however, may not be authorized until the employee has successfully completed the training program, signed the transportation agreement required under par. C4002, and has been assigned to a new permanent duty station other than the permanent duty station at the time of selection and entry upon the training assignment."

Your first question is answered in the negative.

#### QUESTION 2

"If the answer to the above question is negative, it appears that the original PCS order is in violation of 5 U.S.C. § 4109 and, therefore, must be amended, as a minimum, to delete the authorization for temporary quarters subsistence expense (TQSE), miscellaneous expenses, and shipment of the privately owned vehicle (POV). However, the cost comparison required by 5 U.S.C. § 4109 (per diem expenses versus movement of dependents and household goods (HHG)) was not performed. Since it has now been determined that authorizing per diem expenses would be more cost effective than authorizing movement, may Mr. Croall's order be retroactively amended, at this time, to authorize per diem?"

Answer. The above issue was discussed recently in our decision Ms. Lynn C. Willis et al., B-193813, July 22, 1980, 59 Comp. Gen \_\_\_\_\_. We cited the general rule that orders may be modified when they are clearly in conflict with a law or regulation to make them consistent with the applicable law or regulation. We found that proper cost comparisons had not been made as required by 5 U.S.C. § 4109 (1976) prior to the issuance of orders authorizing the transportation of the employee's dependents and household goods incident to a training assignment, and held that such orders were not competent and may be retroactively modified to allow payment of per diem. We noted that a cost comparison showed that per diem would have been less costly, but apparently the actual as opposed to the estimated transportation costs were less than the per diem.

Since the proper cost comparison required by statute was not made prior to issuing orders authorizing payment for transportation of Mr. Croall's dependents and household goods, the facts are essentially analogous to Willis. Further, there is no authority under the provisions of 5 U.S.C. § 4109 (1976), to pay transportation costs for the employee's privately owned vehicle (POV), or temporary quarters subsistence expenses. Michael S. Pond, supra; Robert V. Brown, B-185281, May 24, 1976. However, in the instant case, see discussion under Question 3 relating to advance return transportation.

The travel orders may be retroactively amended accordingly to authorize per diem under the provisions of 5 U.S.C. § 4109.

### QUESTION 3

"If the answer to question #2 is positive, Mr. Croall desires to also utilize his entitlement to advance return transportation of dependents and HHG, authorized by 5 U.S.C. § 5729, based upon having completed a basic transportation agreement incident to his overseas period of service. May a travel order be cut at this time to retroactively authorize this advance return?"

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Answer. The authority to reimburse an employee for the advance return of members of his family and shipping his household goods and personal effects is set forth at 5 U.S.C. § 5729 (1976). Subsection 5729(a) provides that, under such regulations as the President may prescribe, an agency shall pay such expenses, not more than once, prior to the return of the employee, when the employee has acquired eligibility for return transportation or when the public interest requires the return of the immediate family for compelling personal reasons of a humanitarian or compassionate nature. The appropriate regulations concerning this statutory requirement are found in the Federal Travel Regulations (FPMR 101-7, May 1973) (FTR), paragraph 2-1.5g(5), and 2 JTR, paragraph C7003-4 (change 142, August 1, 1977).

We have held that the benefits arising from a transportation agreement are part of the bargained-for consideration incident to employment and that these rights may be divested or revoked only in very limited circumstances. 54 Comp. Gen. 814 (1975). Thus, in effect, Mr. Croall acquired a vested right under 5 U.S.C. § 5729 because he had acquired eligibility for return transportation well before he was ordered to return for training. 54 Comp. Gen. 814 (1975). Although the travel of the dependents and shipment of the household goods did not precede Mr. Croall, under the statute, entitlement to return transportation of dependents and household goods at Government expense is not dependent upon the employee himself performing such travel. 36 Comp. Gen. 10 (1956).

Mr. Croall completed his obligation under his service agreement and, therefore, became entitled to the benefits under 5 U.S.C. § 5729 (1976). The travel orders may be amended accordingly.

#### QUESTION 4

"If the answer to question #3 is positive, Mr. Croall would, in essence, receive both per diem (under 5 U.S.C. 4109) and movement (under 5 U.S.C. 5729). To preclude this dual expenditure, is it permissible to disregard the costs of movement of dependents and HHG in performing the cost comparison required by 5 U.S.C. 4109 in cases where a previously earned entitlement to movement exists? In these cases movement would

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automatically be authorized in lieu of per diem, yielding a considerable savings to the Government."

Answer The authority for paying expenses of training in 5 U.S.C. § 4109 is discretionary and it is up to the head of an agency to determine what part, if any, of the training expenses will be paid. Raymond F. Moss, B-180599, November 14, 1974. We have also recognized that agencies may in fact require employees to pay some of the indirect costs of training. Thomas B. Cox, B-187213, October 1, 1976. However, an agency may pay for the transportation of an employee's family and household goods pursuant to section 4109, only if the estimated cost of that transportation is less than the aggregate cost of per diem for the period of training. Lynn C. Willis et al., supra. A post factum determination of this has been made herein (question and answer No. 2). But in accordance with our answer to question No. 3, the transportation of an employee's family and household goods may, in appropriate cases, be authorized pursuant to 5 U.S.C. § 5729, and not 5 U.S.C. § 4109. Thus, in future cases of this nature, it would not be necessary to perform a cost comparison because dependent travel and transportation of household goods will be performed under 5 U.S.C. § 5729. The agency retains discretion to authorize full or partial per diem to an employee for the training. We note that the Office of Personnel Management has proposed a regulation which would set per diem for training assignments in excess of 30 days at 55 percent of the full per diem allowed by the Federal Travel Regulations. 45 Fed. Reg. 67669 (October 14, 1980).

#### QUESTION 5

"In a similar case dealing with long-term training prior to a known PCS (B-185281, 24 May 1976) you stated that the employee's entitlement to TQSE could be utilized in advance of the actual PCS as long as selection for the training program was tantamount to notice of transfer. May this principle be extended to allow for the advance shipment of Mr. Croall's POV in anticipation of his PCS in June 1980? May transportation expenses incurred in traveling to and from the ports to deliver and pick up the POV be reimbursed,

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and if so, is reimbursement limited to a construction of the costs which would have been incurred if the employee had travelled directly from the foreign area to the new permanent duty station?"

Answer. In our decision Robert V. Brown, B-185281, May 24, 1976, cited above, we allowed reimbursement for temporary quarters subsistence expenses where the employee's training assignment was in fact ordered in anticipation of his further reassignment to a new but undetermined permanent station. This decision was also based on the fact that an employee transferred to a new permanent duty station may be reimbursed for TQSE prior to reporting for duty at the new duty station regardless of the location of the temporary quarters. We believe that the rationale in that decision can be extended to the shipment of POV's where the employee is assigned to training with the understanding that, upon completion of the training, he or she will be assigned to a new permanent duty station in the United States. Since such reimbursement incident to 5 U.S.C. § 5727(b) (1976), relates to a return from overseas pursuant to transfer to a new duty station, reimbursement should not be made until the training is completed, the appropriate agreement has been signed, and the employee has been assigned to a new permanent duty station. B-166943, February 16, 1971; B-161795, June 29, 1967.

Transportation expenses incurred in traveling to and from the ports to deliver and pick up the POV should be allowed as in any permanent change of station transfer in accordance with the applicable regulations in the FTR, paragraph 2-10.4, and 2 JTR paragraph C11004. See also Louis DeBeer, B-193837, July 17, 1979.

#### QUESTION 6

"While stationed in Germany, Mr. Croall had HHG in nontemporary storage (NTS) authorized by 5 U.S.C. 5726(b). If his orders are amended to authorize per diem, may his goods remain in NTS for the duration of his training assignment? If he is authorized movement of dependents and HHG in lieu of per diem, may that portion of his HHG which are in NTS remain since technically, his permanent duty station remains in Germany until completion of the training?"

Answer. There is no authority to reimburse an employee for nontemporary storage of household goods incident to training under the provisions of 5 U.S.C. § 4109. Michael G. Pond, supra. Thus, any authority for the nontemporary storage of household goods must arise out of Mr. Croall's entitlement in 5 U.S.C. § 5726(b) (1976). Like the provisions authorizing travel expenses under section 4109, the provisions of section 5726(b) are discretionary with the head of an agency. The regulations state in 2 JTR, paragraph C8002-c(2):

"(2) Eligibility. To be eligible for nontemporary storage one of the following conditions must be met:

- "1. the permanent duty station is one to which he is not authorized to or at which he is unable to use his household goods,
- "2. the storage is authorized in the public interest,
- "3. the estimated cost of storage would be less than the cost of round trip transportation (including temporary storage) of the household goods to the new permanent duty station."

The regulations also state in 2 JTR, paragraph C8002-c(4), that eligibility shall be deemed to terminate on the last day of work at the post of duty. But,

\*\*\*When an employee ceases to be eligible for the allowance, storage at Government expense may continue until the beginning of the second month after the month in which his eligibility terminates, unless, to avoid inequity, the overseas command extends the period.\*\*\*"

Since this authority is discretionary, we do not wish to interfere with the exercise of the agency's discretion by establishing parameters in which nontemporary storage must cease. However, if it is determined by the agency in advance that the employee will no longer return to his overseas assignment after completion of training, then it could be determined that the employee's eligibility terminated on his last day of work at the post of duty.

QUESTION 7

"While assigned to Germany, Mr. Croall received a post allowance and Living Quarters Allowance. If it is determined that Mr. Croall's official duty station continues to be in Germany while he is attending the training, the Department of State Standardized Regulations are unclear as to the point in time the entitlement to these allowances ceases. Does authorized delayed travel of the dependents have an effect on the termination of allowances? Does the type of travel order (per diem versus movement of dependents and HHG) have an effect on the termination of allowances?"

Answer. We agree that the State Department Standardized Regulations (Government Civilians, Foreign Areas), section 130, living quarters allowance, and section 220, post allowance, are unclear as to the point in time the entitlement to these allowances cease when long-term training is involved. However, in response to our inquiry the State Department advised us that:

"In general, so long as the employee is assigned to Heidelberg, Germany and is absent on temporary duty (training) orders with per diem and so long as his family continues to reside in Heidelberg with quarters costs incurred, the living quarters allowance and the post (cost of living) allowance would continue. A transfer order (permanent change of station) for employee would terminate allowances (including quarters and post) at employee's old post as of the date of his departure (or earlier if he stopped incurring quarters cost at the old post), or on the effective date of transfer, if employee is already at the new post. Such transfer order would include authority for transportation of dependents and household goods."

The above is the State Department's interpretation of its own regulations and should be given great weight. However, it is only the general rule and without more information as to a specific case, we would be unable to determine exactly when the allowances terminated. If, as the answer to question

No. 3 indicates, a travel order is issued to retroactively authorize advance return travel of dependents and household goods it would seem that the allowances would cease when the employee's family no longer occupies quarters and departs from the overseas post. Effective use of advance return travel for dependents and household goods in future long-term training assignments of this nature could alleviate the necessity for the payment of overseas allowances. If there is still any doubt as to the payment of overseas allowances in Mr. Croall's case, the matter could be submitted at a later date together with more detailed information.

QUESTION 8

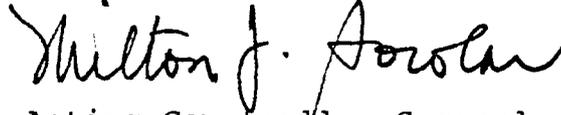
"Mr. Croall's actual place of residence is Fort Monroe, Virginia. If he is authorized advance return of dependents and HHG, as contemplated in question #3 above, he will designate an alternate destination of Washington, D.C., and accept responsibility for any difference in cost. Upon completion of the training assignment when the final PCS occurs, can further movement at Government expense be authorized for the dependents and HHG? Would such reimbursement be limited to the constructed cost of transportation from the old to the new duty station? Would such shipment of HHG be limited to the constructed cost of shipment in one lot by the most economical route from the old to the new duty station?"

Answer. The authority for the payment of transportation expenses for the prior return of the employee's family and household goods under 5 U.S.C. § 5729 limits reimbursement. The employee is entitled to transportation expenses from his post of duty to his actual place of residence. Mr. Croall's actual place of residence is Fort Monroe, Virginia. Thus, since Mr. Croall has completed his training, received his permanent change of station orders, and executed the necessary agreement, he may be reimbursed the constructive cost of transportation from his old to his new duty station, less the cost of transportation from his old duty station to his place of residence. 52 Comp. Gen. 834 (1973). The shipment of household

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goods should be limited to the constructive cost of shipment in one lot by the most economical route from the old to new duty station. Ramon V. Romero, B-190330, February 23, 1978; FTR paragraph 2-8.2d.

Your questions are answered accordingly.



Acting Comptroller General  
of the United States